

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

TERRANCE WILLIAMS,

Plaintiff,

v.

HODGE, *et al.*,

Defendants.

Case No. 3:21-cv-00375-MMD-CLB

ORDER

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by Plaintiff Terrance Williams. (ECF No. 1-1.) On August 23, 2021, this Court issued an order directing Williams to file a fully complete application to proceed *in forma pauperis* (“IFP Application”) or pay the full \$402 filing fee on or before October 22, 2021. (ECF No. 3). The October 22, 2021, deadline has now expired, and Williams has not filed a fully complete IFP Application, paid the full \$402 filing fee, or otherwise responded to the Court’s order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address);

1 *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for
2 failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir.
3 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey
5 a court order, or failure to comply with local rules, the Court must consider several factors:
6 (1) the public's interest in the expeditious resolution of litigation; (2) the Court's need to
7 manage its docket; (3) the risk of prejudice to Defendants; (4) the public policy favoring
8 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
9 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
10 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

11 Here, the Court finds that the first two factors, the public's interest in expeditiously
12 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
13 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
14 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
15 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
16 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
17 disposition of cases on their merits—is greatly outweighed by the factors in favor of
18 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
19 the court's order will result in dismissal satisfies the "consideration of alternatives"
20 requirement. See *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
21 F.2d at 1424. The Court's order requiring Williams to file a fully complete IFP Application
22 or pay the full \$402 filing fee on or before October 22, 2021 expressly stated: "It is further
23 ordered that, if Plaintiff does not file a fully complete application to proceed *in forma*
24 *pauperis* with all three documents or pay the full \$402 filing fee for a civil action on or
25 before October 22, 2021, this case will be subject to dismissal without prejudice for
26 Plaintiff to refile the case with the Court, under a new case number, when Plaintiff has all
27 three documents needed to file a complete application to proceed *in forma pauperis* or
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1 pays the the full \$402 filing fee.” (ECF No. 3 at 3.) Thus, Williams had adequate warning
2 that dismissal would result from noncompliance with the Court’s order.

3 It is therefore ordered that this case is dismissed, in its entirety, without prejudice
4 based on Williams’ failure to file a fully complete application to proceed *in forma pauperis*
5 or pay the full \$402 filing fee in compliance with this Court’s August 23, 2021, order. (ECF
6 No. 3.)

7 It is further ordered that Williams’ motion for appointment of counsel (ECF No. 1-
8 2) is denied as moot.

9 The Clerk of Court is directed to close this case. No other documents may be filed
10 in this now closed case.

11 DATED THIS 28th Day of October 2021.

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14 MIRANDA M. DU
15 CHIEF UNITED STATES DISTRICT JUDGE
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